

FILED in the DISTRICT COURTS
State of Alaska at Unalaska

APR 10 2023

Clerk of Court

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IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT AT UNALASKA

THE ALEUT CORPORATION, an
Alaska corporation; ALEUT
ENTERPRISE LLC, an Alaska
limited liability company; and ADAK
PETROLEUM, LLC, an Alaska
limited liability company.

Plaintiff,

v.

OCEAN PEACE, INC., a Washington
corporation,

Defendant.

IN ADMIRALTY

NO. 301-23-0001001

COMPLAINT

Now come The Aleut Corporation, Aleut Enterprise, LLC and Adak Petroleum, LLC (collectively "Plaintiffs" or "Aleut") and for their *Complaint*, state and allege as follows:

I. PARTIES, JURISDICTION, AND VENUE

1.1 Plaintiff The Aleut Corporation is a corporation organized under the Alaska Native Claims Settlement Act of 1971, 43 U.S.C. § 1606 *et seq.* ("ANCSA") and Alaska law.

1.2 Plaintiff Aleut Enterprise, LLC is an Alaska Limited Liability Company and a wholly owned subsidiary of The Aleut Corporation.

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1.3 Plaintiff Adak Petroleum, LLC is an Alaska Limited Liability Company and wholly owned subsidiary of Aleut Enterprise, LLC.

1.4 At all pertinent times, defendant Ocean Peace, Inc. ("Ocean Peace") was, and still is, a corporation organized and existing under the laws of the state of Washington. Ocean Peace regularly does business in Alaska, including in this Judicial District.

1.5 The Court has personal jurisdiction over the aforementioned defendant by virtue of their transacting business within this district and being involved at the incident in Adak, Alaska.

1.6 Venue is proper in Unalaska because the event giving rise to this lawsuit is an allision that occurred in Adak, Alaska.

II. FACTS

2.1 The ALASKA WARRIOR is a 192-foot-long fishing vessel owned by Ocean Peace.

2.2 On or about October 31, 2021, the ALASKA WARRIOR called at the fuel dock in Adak, Alaska to receive fuel.

2.3 While landing at the fuel dock, the individual in command of the ALASKA WARRIOR lost situational awareness and allided with the north catwalk of the fuel dock.

2.4 The fuel dock is owned and operated by Plaintiffs.

2.5 As a result of the allision and damage to the catwalk, the fuel dock cannot be used to land larger vessels.

2.6 Because larger vessels cannot be landed at the fuel dock, the cost to supply Adak with fuel increased significantly.

2.7 It will cost approximately \$2.1 million to repair the catwalk so it can be used to land the larger vessels.

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2.8 To date, Plaintiffs have incurred over \$30,000 in assessing the damages and developing a repair plan.

III. FIRST CAUSE OF ACTION

MARITIME NEGLIGENCE

3.1 Plaintiffs hereby incorporate the above-stated allegations.

3.2 Ocean Peace owed Plaintiffs a duty to act with reasonable care when landing the vessel at the dock and to avoid damaging the dock.

3.3 Ocean Peace breached its duty to act with reasonable care when landing the vessel because the operator of the vessel lost situational awareness as to the location of the dock and came in too hard and allided with the north catwalk. This caused physical damage to the north catwalk.

3.4 Plaintiffs have been damaged by the physical damage to their property, the north catwalk. The cost of repairing the dock is approximately \$2.1 million, plus costs associated with assessing the damage.

3.5 Plaintiffs have additional operating costs because of the damage to the north catwalk in an amount to be proven at trial.

IV. SECOND CAUSE OF ACTION

BREACH OF IMPLIED WARRANTY OF WORKMANLIKE PERFORMANCE

4.1 Plaintiffs hereby incorporate the above-stated allegations.

4.2 Ocean Peace and Plaintiffs have a contract where Ocean Peace lands at the fuel dock to receive fuel from Plaintiffs. Ocean Peace has a duty to conduct the vessel landing in a workmanlike manner.

4.3 Ocean Peace breached its duty to act in a workmanlike manner when landing the vessel because the operator of the vessel lost situational awareness as to the location of the dock and came in too hard and allided with the north catwalk. This caused physical damage to the north catwalk.

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4.4 Plaintiffs have been damaged by the physical damage to the north catwalk because it is unable to moor larger vessels at the facility. Aleut has additional operating costs because of the damage to the north catwalk in an amount to be proven at trial.

PRAYER FOR RELIEF

WHEREFORE, plaintiff prays:

1. That the Court award judgment in favor of Plaintiffs against Defendant on Plaintiffs' causes of action, in an amount to be proven at trial, but not less than \$2.1 million in repair costs.

2. That the Court award judgment in favor of Plaintiffs against Defendant for all fees and costs, including attorneys' fees under Civil Rule 82;

3. That Plaintiff be awarded pre-judgment and post-judgment interest, as well as costs; and

4. For such other and further relief as the court deems just and proper.

DATED this Friday, April 07, 2023.

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/s/ Donald K. McLean

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